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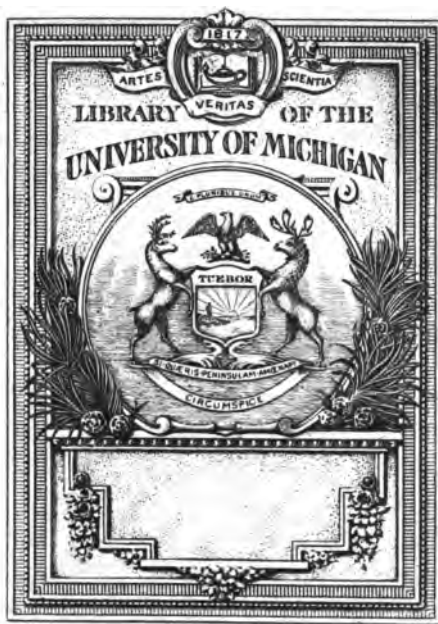
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THE WHITE PAPER

THE WHITE PAPER

THE WHITE PAPER

THE WHITE PAPER

Let this be Printed,

WHITE-HALL,

Decemb. 21st. 1687.

Sunderland P.

A Vindication
OF THE
PROCEEDINGS
OF
His Majesties

Ecclesiastical Commissioners,
*Against the Bishop of London and
the Fellows of Magdalen-College.*

L O N D O N,

Printed by Tho. Milbourn, and Published by
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A Vindication OF THE PROCEEDINGS

OF

His Majesties

Ecclesiastical Commissioners, &c.

The Introduction.

THE Proceedings of His MA-
JESTY's *Ecclesiastical Com-
missioners*, being Made the
Common Talk of the Town, espe-
cially since the Fellows of *Magdalen*
B Colledge

12-20-44-21

mm

Colledge have been suspended, and Expelled for their Disobedience, and Contempt to His *M A J E S T Y*, its become Necessary to give the World a Just and Naked State of this whole Affair, to the end they may see, what *Manner of Men Our Conspicuous Clergy, and their Creatures* are; For, on an Impartial Disquisition into the Whole of this Matter, it will appear, that His *M A J E S T Y* has taken Special Care, that His Commissioners do not Exercise the Regal Power in that severe Way, the Church of *ENGLAND* has done against Protestant Dissenters.

The *K I N G* Remembreth the Promise He has made of Protecting the Church of *England*, as by Law Established; and hitherto has done Nothing that Contradicts it; but has been so very Tender in this Point,
as

as not to go so Far, as Justly He might; and whoever will but Consider the Sense Our Church of *England* Divines, and Lawyers have had of His *MAJESTY's* Ecclesiastick Supremacy will soon see, that it's not easie for the Church of *England* to Speak against the Authority of His *MAJESTY's* Commissioners, or the Legality of their Proceedings, without Condemning Themselves, for what they have done against the *Puritans*. The Case, in short, will be brought to this; Either the Church of *England* has most Unjustly Depriv'd the Old Puritans; Or, the *KING* has very Righteously Suspended the Bishop of *London*, and Expell'd the Fellows of *Magdalen* Colledge.

The Agreement between what the *KING* has done, and the Church

of *England-Law*, is so *Exact* and *Full*, that it's impossible for Our *Church-Men* to Vindicate the Practices of their Bishop, and *Magdalen* Gentlemen, without Tearing up the very *Foundations* of Their Own Ecclesiastick Constitution. And notwithstanding the Clamour these Men make, the Court Held by the *K I N G's* Commissioners, and Visitors, will appear to be Grounded on the Church of *England-Law*, and so are the Proceedings in the Instances before Us.

SECT. I.

Section I.

*The Legality of the Court, Held by
His MAJESTIES Ecclesiastical
Commissioners.*

AS for the COURT, Held by the KING's Ecclesiastical Commissioners, though it's Said to be Contrary to the Express Words of a Law lately Made, yet, on a Considerate Examination of the Whole Matter; the Case plainly is thus: Before the 1st. Eliz. it is Agree'd, That all Ordinaries, and Ecclesiastical Judges whatsoever, Ought in all Ecclesiastical Causes to have Proceeded according to the Censures of the Church, and could not in any Case have Punished any Delinquent by *Fines*, or *Imprisonments*, unless they had Authority so to do by Act of Parliament. The Papal Authority did never *Fine* or *Imprison* in any Case

Case, but ever Proceeded *Only* by Ecclesiastical Censures. But in *Queen Elizabeths* Reign, the **Ecclesiastical Commissioners** Proceeded to Fine, and Imprison; and that by Force, as was then Suggested, of the Statute *1st. Elizabeth*. This Act was therefore Consulted, and the *Common-Lawyers* Differ'd from the *Civilians*, the Former Holding, that This Law gave no Countenance to the Opinion of those, who said that it Impowered the Ecclesiastick Commissioners to Fine, and Imprison. And My *L^d* Ch. Justice Coke, in his *Institutes*, doth with the greatest Clearness Demonstrate, That the Express Letter and Meaning of *1st. Eliz.* is to Restore to the Crown the *Ancient Jurisdiction Ecclesiastical*, and no Commissioner by Force of that Ancient Ecclesiastical Jurisdiction could impose Fine, and Imprisonment; that these Commissioners, having their Force from this Act of *Restitution*, cannot Inflict any such Punishments. However, the Commissioners did Proceed in all Cases to Fine, and Imprison, and, exceeding the Bounds of Ecclesiastical Censure, did Oppress, and Ruine so many thousand Families, that the

Par.

Part 4.
C. 74.

Parliament, in the *Seventeenth* Year of **CHARLES** the *First*, took Notice of it, and Declared in the Preamble of that Statute, 17. Car. I.
c. XL.

That whereas, by Colour of Some WORDS in the *Aforesaid* Branch of *First Eliz.* whereby Commissioners are Authorized to Execute their Commission according to the Tenour, and Effect of the KING's Letters Patents, and by Letters Patents Grounded thereupon, the said Commissioners have to the Great and Insufferable Wrong and Oppression of the KING's Subjects, used to fine, and Imprison, and to Exercise Other Authority not Belonging to Ecclesiastical Jurisdiction Restored by that Act, and divers other Great Mischiefs, and Inconveniencies have also Ensued to the KING's Subjects by Reason of the said Branch, and Commissions Issuing thereupon, and the Executions thereof; Therefore for the Repressing and Preventing of

of the foresaid Abuses, Offences,
and Inconveniences for Time to
come, Be it Enacted, &c.

Here it must be Noted, that the Ecclesiastick Commissioners taking the Branch of 1st. Eliz. in another Sense than the Common Lawyers did, and that by Colour of some Words in it, the Parliament Repeal'd this Branch, thus Understood, Forbidding all Ecclesiastical Judges to Proceed to *Fine*, or *Imprison* the KING's Subjects, or tender the Oath *Ex Officio*,

This Branch of 1st. Elizabeth being thus Repeal'd, and the *High - Commission - Court* put down, and Care taken, that No such Court be for the future Erected: 'Twas Generally Concluded,

That all Ordinary Jurisdiction was Taken from the Archbishops, Bishops, Vicar - Generals, Or any other person, or persons whatsoever Exercising Spiritual, or Ecclesiastical Power, Authority, or Jurisdiction by any Grant, Licence, or Commission of the KING's Majesty. But on the

the contrary it was Declared and Enacted,
 13 Car. 2. c. 12. That neither the
 said Act of 17 Car. 1. nor any thing
 therein Contained Doth, or Shall take
 away any Ordinary Power, or Au-
 thority from any Person, or Per-
 sons Named as Aforesaid, That is,
 no Authority, or Jurisdiction is, or shall be
 taken from the Arch-Bishops, Bishops, VICAR-
 GENERALS, or any Person, or Persons
 Exercising Ecclesiastical Authority by any
 COMMISSION of the KING's Ma-
 jesty, But that They, and every of
 Them Exercising Ecclesiastical Ju-
 risdiction may Proceed, Determine,
 Sentence, Execute and Exercise all
 manner of Ecclesiastical Jurisdicti-
 on, and all Censures, and Coerci-
 ons appertaining, and belonging
 to the same, before the making of
 the Act, 17 Car. 1. in all Causes,
 and Matters belonging to Ecclesia-
 stical Jurisdiction, according to the
 KING's Majesty's Ecclesiastical
 Laws, used and practised in this
 Realm, in as ample Manner, and
 C Form

form as they did, and might lawfully have done before the making of the said Act.

Thus much is Express in this Statute, 13 Car. 2. c. 12. whereby all Power, and Ecclesiastical Authority, which belonged to Archbishops, Bishops, *Vicar-Generals*, or any other Persons, exercising Authority by *Commission of the KING's Majesty* before the making of the 17 Car. 1. is Recognized to belong unto the abovenamed Persons notwithstanding any thing in the said Statute to the contrary; and that therefore whatever is said touching the *High-Commission-Court*, in the following Branch, must be understood of their *Fining*, and *Imprisoning*. Thus much may be also inferred from the last Clause, 13 Car. 2. where it is provided, **That this Act, or any thing therein contained shall not Extend, or be construed to Extend to give unto any Archbishop, Bishop, or any other person, or persons aforesaid, any Power or Authority to exercise, execute, inflict, or determine, any Ecclesiastical Jurisdiction, Censure, or Coercion, which they might not by Law**

Law have done before the Year of
our LORD, 1639. Nor to *Abridge*, or
Diminish, the KING's Majesties Supremacy
in Ecclesiastical Matters and Affairs.

Whence I infer, that there is no other
 Power taken from the Ecclesiastick Com-
 missioners, than that of *Fining*, *Imprison-*
ing, or *Tendering the OATH Ex Officio.*
 Thus much was suppress'd by 17 Car. 1.
 and no more. An Ecclesiastical COURT
 exercising this Power was put down, and
 the Erecting the like for Time to come
 strictly forbidden. But the COURT
~~Now~~ set up, is not like unto This, for it
 pretends not to *Fine*, or *Imprison*, -or tender
 the Oath *Ex Officio*; it keeps within the bounds
 of *Ecclesiastick Censures*,
 and is no more like the
High - Commission - Court,
 than **Doctors Commons* is;
 for Vicar-Generals, or
 other Persons exercise-
 ing Authority by His
 Majesties Commission,

*The Court Held by His
 MAJESTIES Ecclesiasti-
 cal Commissioners, is more
 Legal than the Bishops Courts;
 This is in the KING's Name,
 Theirs in their ~~Own~~ Names
 only.

have as much Power left them; as Arch-
bishops, or Bishops have.

So much Touching the *Legality* of the
C O U R T.

The next Thing to be Considered, is,
Their *Process* against Dr. S H A R P, and
the B I S H O P of L O N D O N,

S E C T. II.

Section I I.

*The Bishop of LONDON's
CASE fairly Stated, and
Examined.*

THE State of the Bishop's
CASE I will give You
in the Answer, his Lord-
ship Made to the Commissioners,
when he was Asked by the Court,
Why He had not Obeyed his MA-
JESTY's Command for Suspending
Dr. Sharp, which is as followeth.
To the Question, that was Proposed
to Me by Your Lordships; viz. why
did you not obey the KING's Com-
mand in his Letter concerning the
Suspending Dr. Sharp.

I Henry Bishop of London Do Answer,
That immediately upon the Receipt of His M^A.
JESTIES Letter from my Lord Presi-
dent, the Tenour whereof follows, viz.

James R.

RIGHT Reverend Father in
God, **WE** Greet You well.
Whereas, **WE** have been
Inform'd, and are fully satisfi'd, that
Dr. John Sharp, Rectour of the
Parish - Church of St. Giles in the
Fields, in the County of Middlesex,
and your Diocess, notwithstanding
Our Late Letter to the most Reve-
rend Fathers in **GOD**, the Arch-
bishops of Canterbury, and York,
& Our Directions concerning Preach-
ers

ers, Given at Our Court at White-Hall, the Fifth of March, 1685. in the Second Year of Our Reign ; yet He the said Dr. Sharp, in Contempt of the said Orders; bath in some of the Sermons he bath since Preached, Presum'd to make unbecoming Reflections, and to Utter such Expressions as were not Fit, or Proper for Him ; endeavouring thereby to beget in the Minds of his Hearers, an evil Opinion of US, and Our Government, by Insinuating Fears, and Jealousies to dispose them to Discontent, and to lead them into Disobedience, Schism, and Rebellion. These are therefore to Require, and Command you immediately upon receipt hereof, forthwith to Suspend Him from further Preaching in any Parish - Church or Chappel in your Diocese,

Diocess, untill he shall give Us Satisfaction, and Our further Pleasure be Known herein. And for so doing, this shall be Your Warrant. And so WE bid You heartily Farewel.

*Given at Our Court at Windsor,
the Fourteenth Day of June,
1686. in the Second Year of
Our Reign.*

By His MAJESTIES

Command,

SUNDERLAND, P.

I Took the best Advice I could get, concerning the Suspension of Dr. Sharp, and was Inform'd, That the Letter being Directed to Me as Bishop of London, to Suspend a Person under my Jurisdiction, I was
therein

therein to Act as a Judge; it being a Judicial Act, and that no Person could by Law, be punished by Suspension, before he was Called, or without being Admitted to make his Defence; I thought it therefore my Duty, forthwith Humbly to Represent so much to my Lord President, that so I might Receive His MAJESTIES Farther Pleasure in that Matter. Nevertheless, that I might Obey His MAJESTY's Commands, as far as by Law I could, I did then send for Dr. Sharp, and Acquainted Him with His MAJESTY's Displeasure, and the Occasion of it, by shewing him His MAJESTY's Letter; But he having never been Called to Answer any such Matter, or make his Defence, and he Protesting his Innocence, and likewise Declaring himself most Ready to give His MAJESTY full Satisfaction therein, in Order thereto, I Advised him to forbear Preaching, untill he had Applied himself to His MAJESTY; and at his Request, I made him the Bearer of a Letter to my Lord President, Waiting for His MAJESTY's further Orders to Proceed against him Judicially, in case he should not at that Time give His MAJESTY the Satisfaction

D

faction Required, and the said Doctor hath not since Preached within my Diocess.

H. London.

That we may Rightly Understand the whole of this Case, it must be observ'd, That His *MAJESTY* received such Evidence against Dr. Sharp, as did fully satisfy Him of the Truth of the Charge; That the Charge it self is of a very high Nature, containing in it, not only Contempt of His *MAJESTY*'s Letter, sent the two Archbishops, and Orders, prescribing Directions concerning Preachers; But, That by his Preaching, he endeavoured to beget in the Minds of his Hearers, an evil Opinion of His *MAJESTY*, and Government, by insinuating Fears, and Jealousies to dispose them to *Discontent*, and lead them into *Disobedience*, *Schism*, and *Rebellion*: A Crime, which most undoubtedly deserves an *Ipso Facto Suspension*, and according to the Opinion of all the Judges, in the Second Year of *JAMES* the First,

is

is an Offence Fineable at Discretion, and very near to Treason, and Felony in the Punishment. Thus it was Resolv'd in the **Puritans** Case, who intimated in a Petition to the KING, That if He deny'd their Sute, many Thousands of His Subjects would be Discontented, and the Reason why they thus Resolyed was, ** Because such Petitions tended to the Raising of Sedition, Rebellion, and Discontent amongst the People.* Whereby these Justices sufficiently Declare, That what tends to the Raising Sedition, Rebellion, and Discontent, is an Offence Fineable at Discretion, and very near to Treason, and Felony in the Punishment: And if His **M A J E S T Y** would have proceeding against Doctor Sharp according to the Method these Church of England Judges have directed unto against Puritans, the Doctors Offence must have been made a Matter Criminal worthy of open Shame; and in which Case His **M A J E S T Y**, to express a tender Respect unto the Clergy, must have found it necessary to ** Degradate the Doctor, whereupon, a Deprivation from his Ecclesiastical Benefice would have followed.*

** Crookes Reports an. 2 Jac. 1.*

** See Dr. Ridley's View, p. 2. c. 2. sect. 3.*

But his *M A J E S T Y*, to shew the Extraordinariness of His Compassion to his Divines of the Church of England, takes a milder Course, Commanding the Bishop of London, only to Suspend him: And yet the Bishop and his Learned Counsel think it, not only *Hard*, but *Illegal*. For saith the Bishop, *I was informed, That the Letter being Directed unto me, as Bishop of London, I was therein to Act as a Judge, it being a Judicial Act, and that no Person could by Law be Punished by Suspension before he was Call'd, or without being Admitted to make his Defence.*

Here then lies the Stress of His Lordships Plea, which will be found to lean on a very manifest Mistake. For the Bishop, observing in the KING's Letter a Command to Suspend the Doctor for a Crime so very great, as this mention'd in the said Letter (Of the Truth of which, the KING assures him He is fully satisfied) ought to have taken it for granted, that Doctor Sharp had incurred an *Ipso Facto* Suspension, and that 'twas his *M A J E S T Y*'s Pleasure, that he should Denounce him

him Suspended ; which the Bishop, not as a Judge, but as a Party engag'd in Defence of the Canon, was bound to do.

The Doctor's Offence then (thus presumed) is very great, and His *MAJESTY* confines Himself within the Circle of Clemency, in that He deals with him in an Ecclesiastical Way, and proceeded no further than to consider him to be *Ipsa Facto* Suspended ; and if *Ipsa Facto* Suspensions be, according to Our Church of England-Laws Valid, the Bishop's insisting on the necessity of his Acting as a Judge in a judicial way cannot help him. It hath been my part therefore to examine, *Whether Ipsa Facto Suspensions be agreeable to the Ecclesiastick Canons, now in force ; and what manner of Process must be Observ'd where they are Incurr'd :* And on Enquiry, I find, that as the *Canonists* generally, so *Lindwood* in particular distinguishes those Censures that are *à Jure*, from what are *ab Homine*, and the Sentence *à Jure lata* from what is *ab Homine ferenda*, concluding, that a Judicial Process is not necessary, when the Delinquent is slain under the Sentence.

Sentence *a Jure*; and that therefore the Ordinary, Chancellor, or Arch-deacon, whose work it is to declare such as are *ipso facto* Excommunicated, or Suspended to be so, do not then act as Judges, but as Parties engag'd in the Defence of Ecclesiastick Laws.

Amongst the Constitutions of Stephen

** Decernimus ne Archidiaconi vel Officiales eorum Sententias Excommunicationis, Suspensionis, vel interdicti in aliquem audeant promulgare, ubi excessus non est Manifestus, nisi monitione Canonica præcedente.* Lindwood constit. Provin. de Sentent. Excom. c. ut Archidiac.

Archbishop of Canterbury, it's ordain'd, That * no Arch-deacons, nor their Officials presume to publish the Sentences of Excommunication or Suspension, or Interdict, on any without previous Admonition: But where

the Crime is *Manifest*, they may pronounce these Sentences: And it must be obser-

† *Hic scias quod Manifestum est publica seu*

ved, That by † **Manifest**, We are to understand what is clear, antecedently to a Judicial Process.

famosa insinuatio vel proclamatio & communis ex certa scientia, & a certis Auctoribus proveniens, nondum judicialiter discussa. Lindwood ubi supr. in verb. Manifestum.

Besides,

Besides, Lindwood expressly affirms, That where the * Superiour declares the Sentence * *Ubi Su-* in Force of the Canon, there is no need of a *perior fert* previous Admonition. *sententiam*

Excommu-
nicationis in vim Statuti, non est aliqua monitio necessaria.
Ubi supr.

Again, where the Excommunication † is pronounced in Force of the Statute, and he that doth Excommunicate, acts as a Party, who with the

† *Ubi Excommunicatio fertur in vim sententiæ & Excommunicans procedit ut pars, quæ jura sua defendit muerone Spirituali, quod satis licet, non est necessaria monitio.* Ubi supr.

Spiritual Sword defends the Laws of the Church, which is Lawful enough for him to do, Admonition is not necessary. But, when the Superiour acts as a Judge, then indeed he is oblig'd to observe a Legal Process.

But the thing I would inculcate, is this; That by the Canon Law, a Penalty may be inflicted without a Hearing Parties; and that, Because it is Decreed *à Jure*, and the Delinquent incurs it *Ipso Facto*. This is the meaning of the many *Ipso Facto* Excommunications and Suspensions, that are Decreed by

by those very *Canons* embrac'd by the Church of *England*; at which time the Bishop is not to act as a Judge, but as a Part, *Quæ Jura sua defendit Mucrone Spirituali.*

* *Duct.*
Dubit. lib 3.
 c. 2. r. 2.
 n. 14.

Whether, what * Dr. Taylor Affirms, when he assures us, That he who incurs a Penalty *Ipso Facto*, is bound to be his own Executioner (Seeing whatever their Obligation may be, none are so forward, as to Execute it on themselves) be true, or no; yet according to Church of *England* Principles, we may aver, That when any do incur Excommunication, or Suspension *Ipso Facto*, the Ordinary, Archdeacon, or his Officials may, without *Hearing Parties*, pronounce it, and take care to see, that it be done; and if the Ordinary Command, the Archdeacon, who is Sworn to render Canonical Obedience, must do it. That when the Sentence is a *Jure lata* in some Cases it's requisite, that either the Ordinary, or some other do also Pronounce it I grant; for in the Constitution made by Boniface, Archbishop of *Canterbury*, those who were *Ipso Facto* Excommunicated, must

must by the * Ordinaries of the place be declared to be so; but then 'tis † without any previous *Admonition*, it's only needful that the Delinquent be cited to Appear, and shew Cause why he should not be declared Excommunicate; and no more can be said of *ipso facto* Suspensions, where

the Sentence is a *Jure seu Canone*; and the utmost that is necessary; is only, That these * Suspensions be publicly Denounced: For, as Lindwood, if an Ordinary be Suspended a *Canone*, he cannot Excommunicate; if he be Denounced; but otherwise he may.

This may suffice to prove, That to Command a Bishop to Suspend; that is, To pronounce one Suspended without a Judicial Process, is conform to the Constitutions and

* *Per locorum Ordinarios publice Excommunicati nuncientur.* Lindwood provin. constit. de foro compell. c. contingit. aliquando.

† *Non opus est monitione in hoc casu sed sola citatione ut veniant allegaturi causam rationabilem, quare declarari non debeant incidisse in dictam sententiam.* Ubi supr. in verb. Nuntiatur.

* *Nec etiam Excommunicare potest & hoc verum in eo, qui est suspensus ab Homine, vel etiam a Canone, si sit publice denunciatus, alioquin in suspensio a Canone non denunciato, quamdē toleratur, in sua statu valet quod per eum agitur.* Lindw. prov. l. 1. tit. 2. de constit. c. Quia in.

brac'd by the Church of *England*; and in this Case the Bishop is bound to Obey, if Commanded by the Supreme Ordinary. And although some very boldly Affirm, That these Suspensions are contrary to the Laws of GOD, of Nature, and of Nations: yet nothing hath been more commonly practis'd by the Church of *England* in their prosecuting Dissenters than *Ipso Facto* Excommunications, which are of a like kind with *Ipso Facto* Suspensions, for both are without a Judicial Process; and at this very time *Ipso Facto* Deprivations, which are more than *Suspensions ab Officio*, are established by our Laws.

By the Statute of 21 *Hen. 8.* If an Incumbent, having a Benefice with Cure of Souls, value *Eight Pound per Annum*, take another with Cure, immediately after Induction thereunto, the former is void, even without any *Declaratory Sentence* of Deprivation in the Ecclesiastical Court. And who ever neglects to Read *The Articles of Religion* within two Months next after Induction, he is deprived *Ipso Facto*; and upon such Avoidance, there is no need of a *Sentence Declaratory*. And if this be not contrary to the Laws of GOD,

GOD, nor of our Land, How comes it to pass, that an *Ipso Facto* Suspension should be such a hideous thing in the esteem of a Church of *England* - Man, who has been so accustomed to treat the *Dissenters* after this very way and manner?

On the whole then, I hope it's sufficiently clear'd, That the Bishop of *London*, in the present case, was bound to Obey His *M A JESTY*, and Suspend the Doctor; That the Capitulation he enter'd into with his Prince, and the Contempt of His *Authority*, deserv'd no less than a Suspension *ab Officio*.

Section III.

*A Just Account of the Proceedings
of the Commissioners Appointed by
His MAJESTY under the Great
Seal for Visiting St. Mary Magda-
len College in Oxford.*

ON the Death of Dr. Clark, Presi-
dent of St. Mary Magdalen in Ox-
ford; before the day of Election
the KING sends down a *Mandamus* for
the Electing another; and whereas, the
Fellows were Sworn to observe the Col-
lege Statutes, which oblig'd them to Choose
one of their Own, or of New College,
His MAJESTY sends down a *Dispensation*
with His *Mandatory Letter*; notwithstanding
which, the Fellows pretending, that they
were

were bound in Conscience to observe the Statute, because of their Oaths, regard not the Mandatory Letter, nor Royal Dispensation; They make not a Choice as the KING Commanded, and when cited before His MAJESTY's Commissioners, and Visitors, to Answer for their Disobedience, they in a most Contemptuous Manner protest against the Proceedings.

The Great Points therefore to be Discussed, may be Reduced to these two Heads.

I. *Whether the KING by His Prerogative may not Dispense with the College Statutes?*

II. *Whether, when there is a Dispensation Granted, the Fellows are by their Oath Obliged*

to

to Act according to those very Statutes, that are Dispensed with?

A Solution to These Questions will be **Sufficient** to Clear the Truth in this Affair; for if the Dispensation according to the Church of *England - Law* be valid, and the Fellows are not by their Oaths Bound to observe the Statutes after such a Dispensation, 'twill unavoidably follow, That the *Magdalen - Fellows* have been most justly Suspended and Expell'd. And thus much will be with much clearness evinced.

I. *Touching the Dispensing Power.*

The KING's Power in Matters Ecclesiastical is so very ample, and extensive, that it's not easy for any one to set bounds, or limits to it; By our Common Lawyers it hath been often affirmed, *That whatever the Pope de facto formerly did within this Realm.*
by

by the Canon Law, that of Right belongs to our
KINGS.

And on this Ground it has been adjudged, That the *Legislative Power* in Matters Ecclesiastical is lodged in the KING. The Pope made Laws for the Government of the Clergy; and so may the KING: And thus much Q. Elizabeth, as supreme Head of the Church of England, on the Request of Archbishop Whitgift exercised, when she imposed a Subscription to the three Articles, and depriv'd those who would not Obey. The Statute of 13 Eliz. c. 12. required Subscription to the *Articles of Faith*, and the *Doctrines of the Sacraments* *only*; and with this, those, who preached against Ceremonies, and the Hierarchick Government, complied.

Whitgift therefore, and the Ecclesiastical Commissioners go further, and by the Regal Power ordained Subscription to the *Ceremonies* and *Government* of the Church, and depriv'd such as refused to Subscribe. In the First of K. James I. these Articles are Established by the *Canons*,
and with

without an Act of Parliament, made in that Year, on which occasion Deprivations were very Common, and the Puritanick

* We complain, That we are put out from our Benefices, which are a *Freehold* by the bare and sole Sentence of a Bishop; whereas the Liberty of an *English-man* is this, To be put from his *Freehold* by none but by the Verdict of Twelve Men. *Parker on the Cross, Part 2. Ch. 8. Sect. 3. P. 108.*

* Clamours as great, yea, so great, that the Clergy judg'd it necessary to beseech His *M A J E S T Y* to command all the Justices of England to confer together of this thing, and give in their opinion,

which accordingly they did; For it being demanded by the Lord Chancellor,

*See Crokes Reports, an. 2. Jacob 1. *Whether the Deprivation of the Puritan Ministers for refusing to conform themselves to the Ceremonies appointed by the last Canons, was Lawful? They all answered, That they had conferred thereof before, and held it to be Lawful, because the KING has the Supreme Ecclesiastical Power. That they held it clear, that the KING, without a Parliament, might make Orders and Constitutions for the Government of the Clergy, and might deprive them, if they Obey not.*

The

The *Civilians* go higher, affirming, That the KING, as Supreme, is *Himself* instead of the *Whole Law*; yea, that he is the *Law it Self*, and the Only Chief Interpreter thereof, as in whose Breast resides the whole Knowledge of the same. And that His *MAJESTY*, by communicating His Authority to His Judges, to Expound the Laws, doth not thereby abdicate the same from Himself. These, with *Borellus*, do hold, * That *Principum placita legis habent vigorem*. *Dr. Ridley view, p. 2. c. 1. sect. 7.

And as the KING, by the Fulness of His Ecclesiastical Power can, *without a Parliament*, make what Laws He Please for the Government of the Clergy; in like manner, The *Power of the KING*, in Matters Ecclesiastical, is too ample to be limited by an *Act of Parliament*.

F

Thus

Thus much has been clear'd up by my
 * part. 4. Lord * Coke, in his *Institutes*, where he
 tells us, **That** albeit the Acts of
 24 Hen. 8. & 25 Hen. 8. do, upon
 certain Appeals, make the sentence
 Definitive, as to any Appeal; for
 the words be [shall be Definitive]
 and that no further Appeal should
 be had, yet the K I N G, after such
 a Definitive Sentence, as Supreme Head,
 may grant a Commission of Review,
 ad Revidendum, &c. — for that after
 a Definitive Sentence, the Pope, as Su-
 preme Head, by the Canon Law,
 used to grant a Commission ad Revi-
 dendum. — And such Authority as the
 Pope had, claiming as Supreme
 Head, doth of Right belong to the
 Crown, and is annexed thereunto by
 the Statutes of the 26 Hen. 8. c. 1.

and

& 1 Eliz. c. 1. And so it was Resolv'd in the Kings-Bench, Trin. 39 Eliz. where the Case was, That Sentence being given in an Ecclesiastical Cause in the Countrey, the Party grieved appeal'd according to the said Act of 25 Hen. 8. to the Archbishop, before whom the first Sentence was affirmed : whereupon, according to the Statute of 25 Hen. 8. he appeal'd to the Delegates. And upon this matter a Prohibition was prayed in the King's-Bench, pretending that the Commission of Review was against Law, for that the Sentence before the Delegates was Definitive by the Statute of 25 Hen. 8. But upon Mature Deliberation and Debate, the Prohibition was denyed; for that the Commission for the Causes

abovesaid was resolv'd to be latofully granted. In this Case, I being then (saith Sir Edward Coke) the Queens Attorney, was of Counsel to maintain the Queens Power. And Presidents were cited in this Court in Michelot's Case, Anno 29 Eliz. and in Goodman's Case, and in Hewet's in 29 Eliz. also. So far Sir Edw. Coke.

From whence it's most manifest, That an Act of Parliament can be no Bar to the Exercise of the Regal Power, that is established by the Common Law, as the KING's Supremacy in Matters Ecclesiastical is. But further,

The Grant of Dispensations is a Peculiar and very Considerable Part of Ecclesiastical Jurisdiction, which is eminently Seated in the CROWN. That the same Power the Pope

Pope claimed in this Land, as Supreme Head, doth of Right belong to our *KINGS*, has been abundantly proved; and in the Statute of 25 *Hen.* 8. c. 22. it is affirmed, *That the Pope claimed full Power to Dispense with all Humane Laws of all Realms in all Causes, which he called Spiritual.* And my Lord Chief Justice *Hobart*, delivering his Opinion about the Power of *Dispensing* in general, holds it clear, * **That though** ^{* Golt and Glover, var, Bishop of Leitchfield.} **the Statute of 25 Hen. 8. c. 21. says,** **That all Dispensations, &c. shall be Granted in manner and form following, and not otherwise; that yet the KING is not thereby restrained, but his Power remains full and perfect as before, and he may still Grant them as KING; for all Acts of Justice and Grace flow from him, as 4 Eliz. Dier. 211. The Com-**
mission

mission of Tryal of Piracy upon the
 Statute of 28 Hen. 8 c. 13. is good, tho-
 the Chancellor do not nominate the
 Commissioners, as that Statute
 appoints, and yet it is a New Law.
 And Mich. 5. & 6. Eliz. Dier. 225.
 The Queen made Sheriffs without
 the Judges, notwithstanding the
 Ninth of Edward 2. And Mich. 13. & 14.
 Eliz. Dier. 303. The Office of Alna-
 ger granted by the Queen, without
 the Will of the Treasurer, it is good
 with a non obstante, against the Sta-
 tute of 31 Hen. 6. c. 5. For these
 Statutes, and the like, were made
 to put things in Ordinary form,
 and to ease the SOVEREIGN of
 Labour, but not to Deprive *Him* of
 Power.

Besides

Besides, the Learned of the Law do with much Plainness aver, and clear up thus much to Us, That the *KING* can Grant out what ever Dispensations the Pope did, so long as the things Dispensed with are not *Mala in se*. In Ecclesiastics the *KING* can Dispense not only with *Canons*, but with *Acts of Parliament*, yea, with any thing that is but *Malum prohibitum*; and seeing the Universities are for the Maintenance of Religion, and fall under the Care of the Supreme *HEAD*, as other Spiritual and Ecclesiastical Corporations do, the *KING* can in like manner Dispense with their Statutes. If with the Greater, no doubt with the Lesser. If an Act of Parliament may be Dispensed with, it's not to be question'd, but a Provincial Canon may be so too; and if Acts of Parliament and Provincial Canons cannot limit, or confine,

or

or stand before the *Dispensing Power*, How is it possible, that a *Colledge-Statute* should do it? To suppose that it can, is to ascribe greater Power to One Man, or to a little Corporation, than to the greatest Body of the *Nation*; than which, nothing can be more absurd. Besides, the Laws enacted by the Founder of a Colledge, can have no more Strength than they receive from the *KING*. Nor can a Colledge be erected without *His Leave*.

Time would fail to produce all the *Authorities*, by which (according to Church of *England-Doctrine*) the *Truth* hereof may be Confirm'd. And this is so well done by other Hands, that I will stay no longer on it, but will go on to Consider,

Whether, notwithstanding a Dispensation, those who have been Sworn to Observe the Statutes

rules of a Colledge, cannot *Act* contrary thereunto, without violating their Oath? For here lies the stress of what the *Magdalen* Gentlemen have to say for themselves; and yet We can no sooner Explicate the Nature of a *Dispensation*, but may see how feeble the Foundation is, on which these Men lean in Defence of their contemptuous Disobedience to the Royal Mandate.

The Nature then of a *Dispensation* (as it was agreed in the case of * *Evan* and *Kiffin* * *Jones Reports, fol. 158, &c.* against *Askwith*) is to derogate, and make void a *Statute*, *Canon*, and *Constitutions* as to that, which it prohibits the Parties, to whom 'tis Given. It is an *Exception* (as to them) out of the *Statute*, or *Constitution*. The Obligatory Power of the *Statute* or *Canon*, is taken away, as to that Person, who has the *Dispensation*. † It is as to him in a manner *† Dispensatio est mali prohibiti proinde relaxatio.*

manner vacated. Though the Canon, Statute, or Constitution be not made simply void and null; yet in some Respects it is made void. As to this, or the other Person, for this time the Obligation Ceases. Here then lies the Difference between the *Dispensing* with a Law, and the *Repealing* it. A Repeal vacates the Law to all Intents and Purposes, but a Dispensation does only in some respect vacate it. By a *Repeal* the Law is abolished, but where there is a *Dispensation* only, though the Law obliges not the Person for such a time, yet it remains a Law still. A Repeal kills it, but a Dispensation only binds it up, or stands between the Obligation of it, and this or the other Party, but still as to the Party to whom the Dispensation is given, the Law is made void, and to him it is as if there had been no such Law for that time.

So

So much touching the Nature of a Dispensation ; from whence it clearly follows, That the *Magdalen* Gentlemen stood not bound by Oath to Choose according to their Statutes, for to them there remained no such Statute as obliged them to choose one of their own Society ; and they might, notwithstanding their Oath, act as if no such thing had been. For the KING sent 'em his Dispensation, which took away the Strength of their Statute ; it laid the very Statute aside for that season : And this Bar being taken out of the *Fellows* way, His Majesty commands them to choose another, and all were bound to Obey the Royal Mandate : For, they were sworn only to the Statutes, that were in force ; but the Dispensation taking away the force of the Statute, the Oath oblig'd them not to keep it.

To illustrate this, I will suppose, that by an Act of Parliament this College-Statute had been made utterly void and null, as those relating to the Mass have been: Will any say, that the Fellows, because of their Oath are with a *Non Obstante* to this Act of Parliament, still bound to keep to the vacated Statute? I presume not, for Statutes made by a particular Man, or Corporation, cannot be of greater Force than an Act of Parliament; and the College-Statute being vacated, the Oath obliges them not to keep it; and for the same reason, I may boldly affirm, that seeing, according to Church of **England-Law**, the Royal Dispensation doth as effectually make void the Statute to these Men for that time, they are not obliged by their Oath to observe it.

Further

Furthermore, we find, that in process of time, some Laws never Repeal'd wear out of date, and become useles; and though never Repeal'd, yet must be consider'd as void and null; or the whole Kingdom must be brought under the Guilt of Perjury. I will instance in one Law, which was Made *Anno 3 Hen. 8. c. 3.* Requiring Every Man, being the KING's Subject, not Lame, Decrepit, nor Maimed, nor having any other Lawful, or Reasonable Cause, or Impediment, being within the Age of Forty Years, except Spiritual Men, Justices of the One Bench, and of the Other, Justices of Assize, and Barons of the Exchequer, to use, and exercise Shooting in Long-Bows, and also to have a Bow and Arrow ready continually in his House

house to use, and do use himself in Shooting: Also, that the Father, Governours, and Rulers of such as are of tender Age, do teach and bring up them in the Knowledge of the same Shooting, &c. I say, there is a Law requiring thus much, not yet Repeal'd, that I can find; and all Constables still Swear, *That, they will have a Care for the Maintenance of Archery, according to the Statute.* But yet it's Notorious, that this Statute is not Observed, nor doth the Constable regard this part of his Oath. And why, But because the Statute is Obsolete, and by a genetal Consent grown out of use, and must be esteemed as if it had been vacate and null. And it's most manifest, that a Dispensation can as effectually, at least so far vacate a Statute, that the Person, who is otherwise Sworn to keep it, may without Perjury forbear it's Observance.

And

And that this is manifest, where there is a Dispensation, appears from the Practices of our Judges, and

Justices of the Peace, throughout the Whole Kingdom, who, tho' Sworn to Execute the Laws, do esteem themselves Discharged from the Execution of those lately Dispensed with by His Sacred MAJESTY. But,

See that new little Book Entituled, *The Justices Case*; which, if it had come out time enough, might perhaps have kept some of these *Magdalen* Scholars in their Places, supposing any of them purely Conscientious, that went out merely for want of Light, about the Obligation of an Oath; which is the business of that Case.

To come Closer to our *Magdalen* - Gentlemen, I would propose to their Consideration the Church-Wardens Oath, which runs in these Words, [**You shall swear Truly and Faithfully to Execute the Office of a Church-Warden, within your Parish, and according to the best**

best of your Skill, and Knowledge, Present such Things, and Persons, as to your Knowledge are Presentable by the Laws Ecclesiastical of this Realm.] This is the Oath, and whatever is contrary to any one Canon, is Presentable by the Laws Ecclesiastical. And if a *Dispensation* be not sufficient to excuse the Church - Wardens from Perjury, for not Presenting the Transgressours of the Canons, This sort of People will not be only Perjur'd, for not Presenting the *Dissenters* at this time, but for not Presenting some of the Fattest amongst their own Clergy-men. For as the *Civilians* assure Us, the Ecclesiastick Law is, That every Spiritual Person is Visitable by the Ordinary, and yet the KING exempts Multitudes from the Ordinary's Visitations. Thus formerly many *Abbies* have been, and now all *Donatives* are exempt,

empt, and the Ecclesiastical Law is Dispensed with; and, Must all those who are in Donatives, and receive not Institution nor Induction from the Bishop, nor will submit to the Ordinary's Visitation, be presented; or are the Church-Wardens Perjur'd?

Again, All *Pluralities* are contrary to the Canon; but if *His MAJESTY* gives a Dispensation, a Priest may hold two Benefices; and nothing more Common. There is also a Canon, That a *Bastard* shall not be a Priest; however, if the KING Dispenses with this Canon, the Bastard may enter into Holy Orders. But must the Church-Warden present Every *Bastard-Priest*, and all that hold *Pluralities*, or else be Forsworn?

But the Case is too plain to need further Proof. All know, That when an Oath is taken to Observe the Laws, it is no longer than they are in Force; If the Law be repeal'd, the Oath obliges not any to Observe it; and as to the Person Dispensed with, the Law for that time so far ceases, that to him, there is no

H

such

such Law, and therefore his Oath binds him not in this case to Regard it. *Effectus enim Dispensationis est auferre à particulari Persona simpliciter, vel in tali tempore aut occasione, Obligationem ad Opus, vel Omissionem, vel pœnam, vel auferre irritationem, aut inhabilitatem, quam lex ipsa efficiebat.* So Salas.

Thus you see, That if it be in the Power of the KING to suspend the Colledge Statutes, the Pretence of Conscience about keeping to their Oath, is vain and ludicrous : For which Reason, I will only add one Consideration more, to shew that the *Dispensing* Power leans on a Foundation that cannot be moved, but to the Endangering the Whole Ecclesiastick Jurisdiction, as Exercis'd by the Bishops.

'Tis well known, That what Power is Strong enough to Dispense with an Act of Parliament about *Civils*, wants not Strength to Dispense with Parliamentary Laws, touching Ecclesiastical Affairs ; nor with Church Canons, nor Colledge Statutes. And that the KING can Dispense with Acts of Parliament,

liament, relating unto Civil Affairs, is a Matter grounded on the same Bottom with the Bishop's Jurisdiction ; and that is, On the *Opinion of the Church - of - England - Judges.*

That it is the Opinion of our *Judges*, That the *KING* can Dispense in Matters Civil, is Notorious, the Matter of Fact is very Lately become too Obvious to admit of a Denyal ; and that the Bishop's Jurisdiction has no other ground for its Support, is easily proved. For by the First of *Edw. 6.* it is declared, that *It's contrary to Common-Law for any to Hold Courts in any other than the KING's Name.* So that, whatever becomes of this Statute, whether Repeal'd, or in Force, seeing the Common-Law remains the same, the Bishops must have a Commission from the *KING*, and Hold Courts in His *MAJESTY'S* Name, or be affirm'd to make an Invasion on the *Common - Law*, which is no less than a *Premunire*. However, the Bishops have held Courts in their own Names ever since King *Edward's* Days ; and, as the Old *Puritans* did imagin, their Courts were Illegal, their Bishops

Premunir'd, and several Demurr'd to their Jurisdiction. For which Reason, **Charles** the First call'd all his Judges together, commanding them to give in their Opinion touching this Matter, which they did in these Words :

According to Your Lordships Order, made in His MAJESTIES Court of Star-Chamber the 12th. of May last, we have taken Consideration of the Particulars, wherein our Opinions are requited by the said Order; and we have All agreed, That Proceses may Issue out of Ecclesiastical Courts, in the Names of Bishops; and that a Patent under the Great Seal is not necessary, &c.

By this it appeareth, That the Whole Power of the Bishop's Jurisdiction depends upon the Opinion of these Judges; and if these Judges Opinion be not more prevalent than the Common-Law, the Jurisdiction of Bishops is gone. If it be, the *Dispensing* - Power, grounded on the Late Opinion of

of the Judges, is Valid : So that the last Result will be this, the Bishop's Power must be Destroyed, or the *KING's Dispensing Power* must be Recogniz'd.

But although the Matter is so fully cleared up, in Defence of His *MAJESTY's* Commissioners and Visitors, yet the Insolence of the *Magdalen-Fellows*, and their Contempt of the *Regal Authority*, exceeded all Bounds ; For as they, contrary to the Royal Mandate, proceed to Elect *Dr. John Hough*, and although his Election was made null and void by the Commissioners for Ecclesiastical Causes, yet the Dr. refused to submit thereunto, whereby he put the Commissioners under a necessity of Expelling him ~~the House~~ ; which being done, the Doctor makes his Protestation against their Proceedings, as *Illegal*, and *Unjust*, and *Null* ; and this Protestation accompanied with a Tumultuous Humm or Acclamation, as if the Whole House had been engaged in a Conspiracy against His *MAJESTY*, and had design'd the Depriving the *CROWN* of One of its Richest Jewels, *viz.* The Ecclesiastical
Supre-

Supremacy. The Fellows also at first refused to submit unto the Bishop of Oxford, who was by His *MAJESTY* made their President; but at last gave in this Answer, in Writing, *viz.*

Whereas His MAJESTY has been Pleas'd by His Royal Authority, to cause the Right Reverend Father in GOD, Samuel Lord Bishop of Oxford, to be Installed President of this Colledge, We, whose Names are hereunto Subscribed, do Submit as far as is Lawful and Agreeable to the Statutes of the said Colledge.

The Chaplains, and all the Members of the Society, except the *Under-Porter*, gave in a Paper to the same Effect.

But Dr. *Farefax*, who would not Submit unto the Suspension he had incurr'd, Disowned the Jurisdiction of the Court, for which Reason he was Deprived of his Fellowship. And, notwithstanding the above-mention'd Submission, these same Fellows, within three Days, brought in a *Paper* with all their Hands Subscribed, of the Tenor following.

May

May it Please Your Lordships,

WEE have Endeavoured in all Our Actions to Express Our Selves with all Humility to His MAJESTY, and being Conscious to Our Selves, That in the whole Conduct of this Business before Your Lordships, We have done nothing, but what Our Oaths and Statutes **Indispensably** oblig'd Us to; We cannot make any Declaration, whereby We acknowledge that We have done Amis, as having Acted according to the Principles of Loyalty and Obedience to His Sacred MAJESTY, as far as We could, without doing Violence to Our Consciences, or Prejudice to Our Rights (one of which We humbly Conceive that of Electing a President to be), from which We are Sworn, upon no Account whatsoever, to depart. We therefore humbly Beg your Lordships to represent this Favourably, with Our Utmost Duty, to His MAJESTY; Whom **G O D** grant Long and Happily to Reign over Us.

On

On the Tuesday, October 25. 1687. they Submit; but on the Friday following, October 28. they can't in Conscience do it. A very sudden, but a prodigious Change. Their Submission was as much as the Visitors expected; for as it was to the Bishop of Oxford, their President, Installed by His *M A J E S T Y*'s Royal Authority, as far as is Lawful and Agreeable to the Statute of the said College, this was enough. For according to Church of England - Law, the *K I N G* can Dispense with their Statutes. To talk of an Indispensable Statute, is to suppose it design'd for the Limitation of the *K I N G*'s Power in Ecclesiastical Causes, whereby it becomes *Ipso Facto*, void and null; but there being no such Statute, the Method His *M A J E S T Y* took, was such as capacitated the Fellows to Obey *His* Authority, without laying their Consciences under a Violence. 'Twas all Fair and Legal, and their Complying so far satisfied the *K I N G*'s Visitors.

But, as we may well conjecture, the Fellows having consulted the Under-Porter, who had

had either more Sence, or Honesty than the Doctors, for he refused to submit so far, perhaps knowing, that this was a *full Submission*, they tack about, and presume to justify all that they had done in this Affair: Though they had declared, That they denyed the Jurisdiction of the Court, and thereby endeavoured to Ravish from the KING a peculiar Part of His Supreme Authority; Though they applauded Dr. *Hough*, for his Protesting against the Proceedings, as Illegal, Void, and Null: Yet they arrive to the Boldness of Averring, *That in the Whole Conduct of this Business they did nothing but what their Oaths and Statutes Indispensably obliged them to*; and therefore cannot declare, *That they have done any thing Amis*, and make Use of what they have oft call'd the Old Seditious Cant of Regulating the Principles of their Loyalty to the KING, by the Conscience of an Oath to the Statutes of the Colledge, and with a *Salvo* to their own Rights.

Though the poor Dissenters did Plead Conscience of Duty unto G O D Only, as

what they Judged sufficient to exempt them from Obeying their Prince in those Instances, which Interfer'd with the *K I N G's* Command ; yet 'twas enough to provoke the Prelatists to censure them *Seditious, Factious, and Rebellious* : But these Gentlemen plead *Conscience* ; not that they are bound by an Heavenly Decree, they can go no higher, than to insist on the *Obligation* of a little Colledge - Statute, that has been Dispensed with, and the *Sacredness* of their University - Rights, as if greater Regard must be had to the Pretended Rights of the Church of *England* - Clergy and Schoolmen, than to those of the *C R O W N* ; and a greater Deference must be paid to the Vacated Statutes of their Colledge, than the *Puritans* might give to the Commands of Jesus Christ.

Thus these *Magdalen* - Gentlemen go on with a Confidence that bears some proportion to the Badness of their Cause, and are not afraid to cast the Greatest Contempt on His *M A J E S T Y's* Commissioners and Visitors, and consequently on His *M A J E S T Y* Himself, whose Person they represent, and instead of Humbling themselves for their many

In-

Insolencies, or instead of acting according to their *Quondam* avowed Doctrine of Passive Obedience, they fly in the Face of Authority, charging it with no less Guilt than the *Injuring* a Whole Society; and, as if they had still to do with their Dissenting Brethren, they close up the Scene with an *Insulting Threat*: For, after their Expulsion, they severally gave in Papers to the Effect following.

May it Please Your Lordships,

I Do profess all Duty to His MAJESTY, and Respect to Your Lordships, but beg Leave to declare, I think my Self **Injured** in Your Lordships Proceedings, and therefore Protest against them, and will use all Just and Legal means of being relieved.

Here you see they complain of *Injuries* done 'em, and are resolv'd to use all Just and Legal Means (they say) for their own Relief. But who can imagine what they will understand by Just and Legal Means?

The Whole of these Proceedings depend on the Dispensing Power : If His *MAJESTY* had not Dispensed with their Colledge - Statutes, the Case would have been another thing ; but the Dispensation makes it manifest, That no Pretence of an *Oath* can be sufficient to excuse their *Disobedience*. Let us then compare the late Actings of these Gentlemen with a Notion we find in an Admired * Pamphlet, Written by one of their own Communion, and we may see Cause justly to conclude, that they esteem the Exercise of the *Dispensing Power* to be a Subversion of the Whole Government, *Which* (to use the Author's own Words) *being so contrary to the Trust that is given to the PRINCE, who ought to Execute it, will put Men upon Uneasie and Dangerous Enquiries, which will turn Little to the Advantage of those who are driving Matters to such a Doubtful and Desperate Issue.* To which let us add, That this is mention'd in Contradistinction to the *Non-resisting Doctrine*; and then consider, Whether any rational Man (who is acquainted with what these very men do, to fill the Minds of His *MAJESTY*'s Subjects with *Discontent*,) can think, that by *Just* and *Legal* they mean
any

* A Letter containing Reflections on His Majesty's Declaration for Liberty of Conscience.

any thing less than some Methods, better indeed *silenced* than *expressed*.

When the Protestant Dissenters went not half so far in their Disobedience to the Regal Authority, they could not escape the Censure of being Enemies to the Government, and were immediately made incapable of any Ecclesiastical Benefice. They only refused to Subscribe unto two of the three Articles, and this was interpreted a Renouncing the *KING's* Supreme Authority in Matters Ecclesiastical, and without the Aid of an Act of Parliament they were deprived.

And whoever carefully observes the Ecclesiastick Proceedings, will find, That when the Ecclesiastical Judges deal with Delinquents, they never give over till there be either a Submission, or a running the Offender to the Last Punishment.

Thus, if a Man did but absent himself from the Sacrament, and was admonished, he must Conform, or be run to an Excommunication, and at last to the Writ-de. Excommu-
nicated

nicato capiendo. In like manner, if any of the Clergy fell under the Censure of Suspension *ab Officio*, unless there had been a Submission, it went on to a Suspension *à Beneficio*; yea, and to a Deprivation: Which, if done in one Diocess, was to be regarded by every Diocesan throughout the whole Kingdom. And the Reason our Clergy give for this, is not the Ruine of the Offenders, but a Reducing 'em to the Knowledge of themselves, and a due Submission to their Superiors; whose Part it is to secure the Great Ends of Government; as also, for the discouraging Others from the like Miscarriages. And on this account it is, that the making the *Magdalen - Fellows* incapable of Ecclesiastical Benefices, Dignities, or Promotions, became **Necessary**, it being no more than what is included in every Deprivation of the Clergy. And for this Reason the KING's Ecclesiastical Commissioners have made the ensuing Decree.

By

By His MAJESTY's Commissioners for *Ecclesiastical Causes*, and for *Visiting the Universities*, and all and every *Cathedral*, and *Collegiate Churches*, *Colledges*, *Grammar-Schools*, and other the like *Incorporations*, or *Foundations*, and *Societies*.

W Hereas, We thought Fit by Our Order, of the 22^d of June last, to Declare, and Decree, That the Pretended Election of Mr. John Hough (now Dr. John Tough) to the Presidentship of St. Mary Magdalen Colledge in the University of Oxon, was Void, and therefore did amove the said Mr. Hough from the Place of President of the said Colledge; And whereas the Fellows of the same were likewise convened before Us for their Disobedience to, and Contempt of His MAJESTY's Authority, by making the said Pretended Election, and it now appearing unto Us, That the said Dr. John Tough, Dr. Charles Aldeworth, Dr. Henry Fairfax, Dr. Alexander Pudsey, Dr. John Smith, Dr. Thomas Bayley, Dr. Hhomas Stafford, Mr. Robert Almont, Mr. Mainwa-
ring.

ring Hammond, Mr. John Rogers, Mr. Richard Strickland, Mr. Henry Dobson, Mr. James Bayley, Mr. John Davies, Mr. Francis Bagshaw, Mr. James Fayrer, Mr. Joseph Harwar, Mr. Thomas Bateman, Mr. George Hunt, Mr. William Cradock, Mr. John Gillman, Mr. George Fulham, Mr. Charles Penyston, Mr. Robert Hyde, Mr. Edward Yerbury, Mr. Henry Holden, and Mr. Stephen Weekes, *Lately Fellows of the said Colledge,* do persist in their Disobedience and Contempt; We have thought Fit, upon Mature Consideration of the Matter, to Declare, Decree, and Pronounce, And We do accordingly Declare, Decree, and Pronounce, That the said Dr. John Hough, &c. and every of Them, shall be, & from henceforth they are hereby declared & adjudged Incapable of Receiving, or being Admitted to any Ecclesiastical Dignity, Benefice, or Promotions; and that such, and every of them, who are not as yet in Holy Orders, shall be, and are hereby Declared and Adjudged incapable of Receiving, or being Admitted into the same; And all Archbishops, Bishops, and other Ecclesiastical Officers and Ministers within the Realm of England, are hereby required to take Notice of This Our Sentence, Order, and Decree, and to yield Obedience thereunto. Given under Our Seal the 10th. of December, 1687. The

The Conclusion.

THUS You have a Just Account given You of the Proceedings of His *MAJESTY*'s Commissioners, and Visitors, with the *KING*'s Power in Matters Ecclesiastical; How, according to Church of *England* - Law, His *MAJESTY* can Dispense, not only with *College-Statutes*, but with *Provincial Canons*, and *Acts of Parliament*; And yet how Unjustly the Fellows Opposed the *KING*'s Supremacy, to which they are All Sworn, and which, they should have Regarded after another manner than they did; As also with what Contempt, and Scorn,

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they Carried it towards His *MAJESTY*'s Visitors; Giving them Opprobrious Language, and making False Reports of Matter of Fact, intending to fill the Minds of the *KING*'s Subjects with Fears, Jealousies, and Discontent : so that, on the whole, an Ordinary Capacity may with much clearness perceive, That His *MAJESTY*'s Commissioners, have in their Proceedings against the *Magdalen*-Fellows kept within the Bounds of *Justice*.

And, notwithstanding any thing the Commissioners have done, either against the *Bishop* of *London*, or *Magdalen* College, His *MAJESTY*'s Clemency toward the Church of *England* is surprizing, and cannot but appear so to any that do but mind what I have already

ready.

ready mention'd about the Opinion of the Judges, which was, *That the KING without a Parliament can make Ordinances and Constitutions for the Government of the Clergy, and Deprive them if they Obey not.* To which, let us Add, That this was the very End, for which the Judges Opinion was desired, *viz.* The Justifying the Church of *Englands* Depriving the Old Puritans for not Subscribing to the Ceremonies enjoyned by the Canon; thereby plainly shewing, that the KING without a Parliament may appoint what Ceremonies He please.

Now it's not to be doubted, That if His *MAJESTY* would but Exercise this Power in Matters Ecclesiastical, he might Appoint and

Ordain so many Ceremonies, and Require Subscription to them, as would make the Church of *England* look exactly like that of *Rome*, and Deprive all those that dare Disobey.

Let us but Consider then, with what Severity the Church of *England* - Clergy express themselves against Popery: and again, Observe how easily the K I N G might by their own Law, impose a very great Part of *It* on them, and deprive them, if they Obey not; and twill not be difficult to conclude, what would be the condition of these Present Sticklers against Popery. To the Sign of the Cross in Baptism, the K I N G might enjoin Exsufflation, Salt, and Spittle; and to Kneeling at the Sacrament, the Deacons

Deacons Kissing of the Hand, or Right Shoulder of the Priest, and the Mens Kissing each other; besides Holy Water, and it's Consecration, as well as the Consecration of Churches; and a hundred such things more might His MAJESTY, enjoin the Clergy, and thereby make it necessary for Our Clergy to Subscribe unto all these, to the Opening the Mouths of *Dissenters* against them, or to Feel what a Deprivation is.

But His MAJESTY, to the end He may convince the most Obstinate Enemies to His Government, is Resolv'd to Proceed in the calmest Way; and therefore, notwithstanding the most Undutiful, and Disloyal Reflections Cast on MAJESTY It self, by some of the Church

Church of *England*; It's His Royal Purpose, That His Commissioners shall not Exercise that Severity against them, which they have against *Protestant-Dissenters*; Nor will His *MAJESTY* take those Advantages against their Clergy, which He might: He is rather for the more Peaceable and Christian Methods, and therefore will do the *Church* of *England* no more Hurt, than to give Ease unto Others: And nothing but a most Violent Provocation, can Overcome Him to Alter this Method.

FINIS.

